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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,740	08/31/2005	Christoph Kern	095309.56013US	9146
23911 7590 01/31/2007 CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300			EXAMINER MCPARTLIN, SARAH BURNHAM	
			ART UNIT 3636	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/31/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/527,740	KERN ET AL.	
	Examiner	Art Unit	
	Sarah B. McPartlin	3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/14/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Acknowledgement is made of applicant's claim for foreign priority based on application number 102427607 filed in Germany on September 6, 2003.

Information Disclosure Statement

2. The information referred to in the information disclosure statements filed on March 14, 2005 has been considered as to the merits.

Claim Objections

3. Claim 13 is objected to because of the following informalities: The phrase "the surface" (claim 13, line 4) lacks sufficient antecedent basis. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 9-14 and 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Thomas et al. (6,212,719). With respect to claim 9, Thomas discloses a seat (200) comprising a seat cushion (205); a seat back (203)(204); a plurality of pressurizable

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elements (28)(48) associated with the seat back (203)(204) and seat cushion (205), for adjusting a seat contour of said vehicle seat; and a controller (134) for pressurizing individual pressurizable elements (28)(48), the controller (134) is adapted to obtain different massage effects (i.e. static inflation/deflation and rapid inflation/deflation); the pressurizable elements (28)(48) are cushion-like elements which are small in relation to a surface of the seat contour and can be activated individual via lines (42)(58) in order to change the seat contour in a substantially localized manner; the seat back (203)(204) and the seat cushion (205) each having an upholstery layer (unlabeled) which is covered by a lining (24) and a "cover (not shown)" (column 12, line 16); and the pressurizable elements (28)(48) are arranged between the upholstery and the cover of the vehicle seat (see Figure 16).

With respect to claim 10, a desired static seat contour can be seat by means of the pressurizable elements (28)(48) and the controller (134).

With respect to claim 11, the pressurizable elements (28)(48) are arranged and fixed on a sheet-like support insert (26) arranged below the lining (24) covered by the cover (un-illustrated) of the vehicle seat (200).

With respect to claim 12, the shape of the pressurizable elements (28)(48) is such that essentially punctiform pressure regions can be produced within the seat contour.

With respect to claim 13, the pressurizable elements (28)(48) are actuatable via respective separate lines (42)(58); the lines are fixed in the surface of the support insert and brought together in a manner such that they are bunched together in the direction

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of the controller. It should be noted that there is a single controller therefore the lines needs to be "bunched" together to reach the solitary controller.

With respect to claim 14, the elements (28)(48) can be pressurized pneumatically (i.e. by a pump).

With respect to claim 17, a vehicle seating surface (100) comprising an upholstery layer (unlabeled), comprising padding supported on a support structure (i.e. a seat); a seat cover (column 12, line 16) disposed on an exterior of said seating surface over said upholstery layer; and a plurality of pressurizable elements (28)(48) distributed in a pattern between the seat cover and the upholstery layer; and means for individually inflating (130) said pressurizable elements.

With respect to claim 18, each of said pressurizable elements (28)(48) generates a substantially localized pressure point in said seating surface.

With respect to claim 19, said pressurizable elements (28)(48) are arranged at fixed locations on a sheet carrier (26) inserted between said upholstery layer and said seat cover.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claims 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas et al. (6,212,719) in view of Kishi et al. (5,155,685). As disclosed above, Thomas et al. reveals all claimed elements with the exception of a controller adapted for carrying out a multiplicity of present and individually settable massage functions, which can be stored.

Kishi discloses a program for a seat massager which functions according to the size of the individual seated in the seat. It therefore has a multiplicity of present functions that are stored in the controller.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to modify the controller disclosed by Thomas et al. to operate in a manner which includes multiple preset stored massage functions. Such a modification would improve the adjustability of the device for various sized seat occupants.

Conclusion

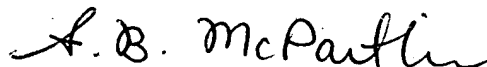
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Biggie et al. (5,687,438); Kishi et al. (5,127,708); Noble (4,840,425); Foley (3,297,023) and Longhi et al. (US 2002/0047297).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah B. McPartlin whose telephone number is 571-272-6854. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Sarah B. McPartlin
Patent Examiner
Art Unit 3636

SBM
January 26, 2007